

BILL ANALYSIS

Senate Research Center
76R10656 DWS-F

C.S.H.B. 23
By: Goolsby (Armbrister)
Economic Development
5/13/1999
Committee Report (Substituted)

DIGEST

The United States Congress passed the Telephone Consumer Protection Act in 1991, which permits a person who receives a telephone communication in violation of the Act, to bring a civil cause of action against the person who initiates the communication, if the laws or rules of court of that state so allow. C.S.H.B. 23 would make certain persons liable for certain prohibited telephone communications.

PURPOSE

As proposed, C.S.H.B. 23 makes certain persons liable for certain prohibited telephone communications.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 35.47, Business & Commerce Code, by amending Subsections (c) and (d) adding Subsections (e), (f), and (g), to prohibit a person from making or causing to be made a transmission for the purpose of a solicitation of sale to a facsimile recording device after 11 p.m. and before 7 a.m. Requires a person who makes or causes to be made a transmission to a facsimile recording device for the purpose of a solicitation or sale to include in the document transmitted or on a cover page to the document a statement, in at least 12-point type, informing the recipient of a toll-free or local exchange accessible number at which the recipient may notify the person not to send any further transmissions to one or more telephone numbers specified by the recipient. Requires the person to take certain action on receipt of notification from a recipient under this subsection. Requires the county or district attorney of the county in which the person resides to investigate the complaint and file charges if appropriate, on complaint of a called person that Subsections (a), (b), (c), or (d) of this section has been violated. Authorizes a person who receives a communication that violates 47 U.S.C. Section 227, a regulation adopted under that provision, or this section, to bring an action against the person who originates the communication in a court of this state for an injunction, damages in the amount provided by this subsection, or both. Provides that a plaintiff may collect certain fees for damages under this subsection if the court finds that certain violations have been committed.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Emergency clause.